

Draft Ordinance Regulating Single Use Plastic and Polystyrene

AN ORDINANCE IN AMENDMENT OF CHAPTER 10 OF THE CODE OF ORDINANCES, TOWN OF GROTON, ENTITLED, "LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS"

SECTION 1. That Chapter 10 of the Code of Ordinances, Town of Groton, entitled, "Licenses, Permits and Miscellaneous Business Regulations" is hereby amended by adding the following new article:

ARTICLE VII. SINGLE USE PLASTIC AND POLYSTYRENE REGULATIONS

Sec. 10-191. – Short Title.

This article shall be known and may be cited as "Single Use Plastic and Polystyrene Regulations" for the Town of Groton.

Sec. 10-192. Purpose.

The purpose of this ordinance is to improve the environment in and around the Town of Groton, Connecticut, and the health, safety, and welfare of its residents by reducing the distribution of plastic carryout bags, plastic straws, plastic stirrers, polystyrene food service products, specifying the recycled content of paper bags, and encouraging the use and sale of reusable checkout bags and non-plastic alternatives. To achieve this, the ordinance regulates the use of plastic carryout bags for retail checkout of goods, plastic straws, stirrers, and polystyrene use at business establishments and food service establishments.

Sec. 10-193. Definitions.

For the purpose of this article, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context (note: the definitions are in alphabetical order):

Business Establishment is any commercial enterprise that provides plastic carryout bags to its customers, including sole proprietorships, joint ventures, partnerships, corporations, or any other legal entity and including all employees of the business and any independent contractors associated with the business. "Business Establishment" does not include sales of goods at yard sales, tag sales, and other sales by residents at their homes.

Carryout Bag is a bag provided by a business establishment to a customer, typically at the point of sale, for the purpose of transporting purchases.

Double Opening Plastic Bag means any thin plastic bag with a double opening (top and bottom) to protect clothing or other items for transport.

Enforcement Officer is an employee of the town, designated by the Town Manager to enforce the provisions of this ordinance.

Food service establishment means any fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern; bar, cocktail lounge, night club, roadside stand, industrial feeding establishment, cultural heritage education facility, private, public or nonprofit organization or institution routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food or drink is served or provided for the public with or without charge. "Food Service Establishment" does not include sales of goods at yard sales, tag sales, and other sales by residents at their homes.

Plastic Barrier Bag is any thin plastic bag with a single opening used to:

- 1) Transport fruits, vegetables, nuts, grains, small hardware items, or other items selected by customers at the point of sale;
- 2) Contain or wrap fresh or frozen foods, meat, or fish, whether prepackaged or not;
- 3) Contain or wrap flowers, potted plants, or other items where damage to a good or contamination of other goods placed together in the same bag may be a problem.
- 4) Contain unwrapped prepared foods or bakery goods.

Plastic Carryout Bag means any plastic bag that is provided by a business establishment to a customer, typically at the point of sale, for the purpose of transporting purchases. "Plastic Carryout Bag" does not include reusable bags, plastic barrier bags or double opening plastic bags, as defined herein, or plastic bags measuring larger than 28 inches by 36 inches.

Plastic Stirrer means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources. "Plastic Stirrer" includes compostable and biodegradable petroleum or biologically based polymer stirrers, but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, etc.

Plastic Straw A plastic straw means a single-use, disposable tube made predominately of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage. "Plastic Straw" does not include a straw made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, or bamboo. "Plastic Straw" also does not include a straw that is attached to or packaged with a beverage container before the beverage container is offered for retail sale.

Polystyrene means and includes blown polystyrene and expanded and extruded foams (sometimes referred to as Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

Polystyrene Food Service Product means any product made in whole or in part of polystyrene and used in the restaurant or food service industry for serving or transporting prepared food. The term includes by way of example and not limitation, cups, bowls, lids, plates, trays, and hinged or lidded containers (clamshells). “*Polystyrene Food Service Product*” does not include polystyrene coolers, egg cartons, or cutlery.

Prepared Food means any food or beverage served or sold at a food service establishment, either for consumption on the premises or for takeout, that has been prepared at the establishment's location or elsewhere by cooking, chopping, slicing, mixing, brewing, freezing, squeezing, or other food preparation technique. “*Prepared Food*” includes leftovers from partially consumed prepared food.

Recyclable Paper Bag means a paper bag that is fully recyclable overall and contains a minimum of 40% post-consumer recycled content and contains no old growth fiber. The bag should display the words “*Reusable*” and “*Recyclable*” on the outside of the bag.

Reusable Bag means a bag with handles that is specifically designed and manufactured for multiple reuse and is made primarily of cloth, other nonwoven textile or durable plastic with a minimum thickness of four (4) mils.

Sec. 10-194. Prohibited Acts.

- a) No business establishment or food service establishment shall provide or make available any plastic carryout bag either complementary or for a fee for any sales transaction or other use to members of the public, that does not comply with the definition of a reusable bag under § 10-193 of this chapter.
- b) No business establishment or food service establishment shall provide or make available a plastic straw, as defined under § 10-193 of this chapter, either complementary or for a fee for any sales transaction or other use to members of the public unless a plastic straw is specifically requested by a patron.
- c) No business establishment or food service establishment shall provide or make available a plastic stirrer, or polystyrene food service product, as defined under § 10-193 of this chapter, either complementary or for a fee for any sales transaction or other use to members of the public.
- d) No business establishment or food service establishment shall serve, sell, distribute or provide prepared food in or on a polystyrene food service product as defined under § 10-193 of this chapter.
- e) Nothing in this section shall preclude a business establishment or food service establishment from making reusable bags or recyclable paper bags, as defined under §

10-193 of this chapter, available to customers, by sale or otherwise.

- f) Nothing in this section shall preclude a business establishment or food service establishment from using or making non-plastic alternative straws, stirrers, or cups made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, or bamboo, available to customers.
- g) Nothing in the section shall preclude a business establishment or food service establishment, as defined under § 10-193 of this chapter, from the retail sale of prepacked, bulk commodities of plastic straws, plastic stirrers, or polystyrene food service products to customers.

Sec. 10-195. Exemptions.

This chapter does not apply to:

- a) Laundry dry cleaning bags, door-hanger bags, newspaper bags, or packages of multiple bags intended for use as garbage or pet waste;
- b) Bags provided by pharmacists or veterinarians to contain prescription drugs or other medical necessities;
- c) Plastic barrier bags or double-opening plastic bags used by a consumer inside a business establishment or food service establishment to:
 - 1) Contain bulk items, such as produce, nuts, grains, candy, or small hardware items;
 - 2) Contain or wrap frozen foods, meat, or fish, whether or not prepackaged;
 - 3) Contain unwrapped prepared foods or bakery goods; or
 - 4) Bags used by nonprofit or other organizations to distribute food, grocery products, clothing, or other household items.
- d) The use or distribution of plastic straws as defined under § 10-193 of this chapter to a consumer with a disability or other impairment requiring the use of plastic straws.
- e) Polystyrene food service products used for prepacked food that have been filled and sealed prior to receipt of the business establishment or food service establishment.
- f) Polystyrene food service products used to contain or store raw meat or seafood that are prepackaged prior to be offered for retail sale and sold from a butcher case or similar retail appliance.

Sec. 10-196. Enforcement, Violations, Penalties.

- a) This ordinance shall be enforced by the Enforcement Officer.
- b) Once this ordinance becomes effective, business establishments and food service providers found to be in violation of these regulations for plastic carryout bags, plastic straws, plastic stirrers, and polystyrene food service products will be notified by the

Town's designated Enforcement Officer in writing and given 14 days to gain compliance. No penalty shall be imposed for the initial violation.

- c) For each subsequent offense of the provisions of this ordinance, the business establishment, or food service establishment shall be provided a written notice ordering cessation of the violation. Notice shall be given to the establishment owner or manager or may be served to the establishment's agent for service and will be accompanied by a \$150.00 fine for each offense. An offense shall be defined as each calendar day, after the 14 day compliance period, that the business establishment or food service establishment is in violation of the provisions of this ordinance. Said violation shall be subject to the provisions of Section 7 of this Ordinance.
- d) The Town hereby establishes a citation hearing procedure pursuant to General Statute Section 7-152c, as may be amended, to enforce any fines issued under this ordinance.

Sec. 10-197. Hardship Variance.

- a) The Town Manager may grant a temporary, one time variance from the requirements of this article only after determining that:
 - 1) application of this chapter would cause undue hardship based upon unique circumstances; or
 - 2) application of this chapter would deprive a person or business of a legally protected right.
- b) The requested variance shall be submitted on the Town's prescribed forms.
- c) Any variance granted under this section must be the minimum variance necessary to address the hardship and shall not exceed 90 days.

Sec. 10-198. Effective Date.

This ordinance shall become effective 6 months after adoption on XX,XX,XXXX (date to be inserted).

Secs. 10-199 - 10-210. - Reserved.